Confinement of youthful offenders in reformatories.

399.† (*1*) When any person under the age of fifteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the [1][2][State] Government] as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry or which is kept by a person willing to obey such rules as the [1][2][State] Government] prescribes with regard to the discipline and training of persons confined therein.

(*2*) All persons confined under this section shall be subject to the rules so prescribed.

(*3*) This section shall not apply to any place in which the Reformatory Schools Act, 1897, is for the time being in force.

Return of warrant on execution of sentence.

400. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed. 1897.

CHAPTER XXIX.

OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES.

Power to suspend or remit sentences.

[3]401. (*1*) When any person has been sentenced to punishment for an offence, [4]* * * * * * the [5][appropriate Government] may at any time without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(*2*) Whenever an application is made to [4]* * * * * * the [5][appropriate Government] for the suspension or remission of a sentence, [4]* * * * * * the [5][appropriate Government] [6]* * * * * * may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion [7][and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists].

(*3*) If any condition on which a sentence has been suspended or remitted is, in the opinion of [4]* * * [8]of the [5][appropriate Government], [6]* * * not fulfilled, [4]* * * the [5][appropriate Government] may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police-officer, without warrant and remanded to undergo the unexpired portion of the sentence.

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† The provisions of section 399 shall cease to apply to any area in which Parts II to XI of the Bombay Children Act, 1948 (Bom. LXXI of 1948), have been brought into operation (*vide* s. 6 of Bom. 71 of 1948).

[1] Substituted by the A. O. 1937 for "L. G.".

[2] Substituted by the A. O. 1950 for "Provincial".

[3] As regards conditional release of good conduct prisoners in the Punjab, *see* the Good Conduct Prisoners' Probational Release Act, 1926 (Pun. Act 10 of 1926).

[4] The words "the G. G. in C. or" rep. by the A. O. 1937.

[5] Substituted by the A. O. 1950 for "Provincial Government".

[6] The words "as the case may be" rep. by the A. O. 1937.

[7] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 107.

[8] The second "of" is superfluous.

(*4*) The condition on which a sentence is suspended or remitted under this section may be one to be fulfiled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

[1][(*4A*) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law which restricts the liberty of any person or imposes any liability upon him or his property.]

[2]* * * * *

(*6*) The [3]* * * * [4][appropriate Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with :

[5][Provided that in the case of any sentence (other than a sentence of fine or whipping) passed on a male person above the age of eighteen years, no such petition by the person sentenced or by any other person on his behalf shall be entertained, unless the person sentenced is in jail, and—

(*a*) where such petition is made by the person sentenced, it is presented through the officer in charge of the jail ; or

(*b*) where such petition is made by any other person, it contains a declaration that the person sentenced is in jail.]

402. [6][(*1*)] The [7]* * * * [4][appropriate Government] may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it :— Power to commute punishment.

death, [8][imprisonment for life], [9]* * rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

[10][(*2*) Nothing in this section shall affect the provisions of section 54 or section 55 of the Indian Penal Code.] XLV of 1860.

[11][(*3*) In this section and in section 401, the expression "appropriate Government" shall mean—

(*a*) in cases where the sentence is for an offence against, or the order referred to in sub-section (*4A*) of section 401 is passed under, any law relating to a matter to which the executive power of the Union extends, the Central Government ; and

(*b*) in other cases, the State Government.]

[12][**402A.** The powers conferred by sections 401 and 402 upon the [13][State] Government, may, in the case of sentences of death, also be exercised by [14][the Central Government][15]* * *.] Sentences of death.

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1 Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 107.
2 Sub-sections (*5*) and (*5A*) were omitted by A. O. 1950.
3 The words "G. G. in C. and the" rep. by the A. O. 1937.
4 Substituted by the A. O. 1950 for "Provincial Government".
5 Added by Act 26 of 1955, s. 78.
6 The original s. 402 was renumbered as sub-section (*1*) of that section by Act 18 of 1923, s. 108.
7 The words "G. G. in C. or the" rep. by the A. O. 1937.
8 Substituted by Act 26 of 1955, s. 79, for "transportation".
9 The words "penal servitude" were omitted by Act 17 of 1949, s. 3 (*10*).
10 Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 108.
11 Added by the A. O. 1950.
12 Inserted by the A. O. 1937 ; *cf.* the G. of I. Act, 1935, s. 295.
13 Substituted by the A. O. 1931950 for "Provincial".
14 Substituted *ibid.*, for "the Governor-General".
15 The words "in his discretion" rep. by the A. O. 1947.